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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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JEREMY WIMBERLY,

Plaintiff,

*versus*

BRITT FEATHERSTON, *et al.*,

Defendants.

§§§§§  
CIVIL ACTION NO. 1:18-CV-557

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Jeremy Wimberly, an inmate confined at the United States Penitentiary located in Terre Haute, Indiana, proceeding *pro se*, brought this lawsuit.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends dismissing this action without prejudice pursuant to FED. R. CIV. P. 41(b).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

Here, there is a clear record of delay by the plaintiff. Plaintiff was originally ordered to submit an amended pleading more than fifteen months ago. The court has provided plaintiff several extensions of time to comply with the order of the court, and plaintiff has been warned of the potential dismissal of his lawsuit for filing to comply. Such warnings, however, have proven futile in prompting the diligent prosecution of this case. The court has considered lesser sanctions but finds no lesser sanction appropriate. Accordingly, the action should be dismissed for want of prosecution.

**ORDER**

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation. Plaintiff may reinstate his claims within thirty (30) days from the date of this order by filing an amended complaint in compliance with the court's order of April 23, 2019.

SIGNED at Beaumont, Texas, this 23rd day of July, 2020.

  
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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE